

ESTTA Tracking number: **ESTTA691355**

Filing date: **08/24/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212424
Party	Defendant Growstone, Inc.
Correspondence Address	C JOHN BRANNON BRANNON SOWERS & CRACRAFT PC 1 NORTH PENNSYLVANIA STREET, SUITE 800 INDIANAPOLIS, IN 46204 UNITED STATES docket@bscattorneys.com, jbrannon@bscattorneys.com, tshah@bscattorneys.com, arollins@bscattorneys.com
Submission	Motion to Amend Application
Filer's Name	Amy A. Rollins
Filer's e-mail	arollins@bscattorneys.com
Signature	/Amy A. Rollins/
Date	08/24/2015
Attachments	Motion to Amend.pdf(128924 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Insight Pharmaceuticals, LLC)	
Opposer,)	
)	
v.)	Opposition No. 91212424
)	Application No. 85883894
Growstone, Inc.)	
Applicant.)	

APPLICANT’ MOTION TO AMEND APPLICATION WITH CONSENT

Applicant, Growstone, Inc. (“Applicant”), with the consent of Insight Pharmaceuticals, LLC (“Opposer”), hereby moves the Board to allow Applicant to file a Motion to Amend Application. Specifically, the parties have agreed to and the Applicant moves to amend the classification of goods from International Class 005 to International Class 001, as filed on October 24, 2014.

I. Standard of Review.

Pursuant to 37 C.F.R. § 2.133(a), “[a]n application involved in a proceeding may not be amended in substance nor may a registration be amended or disclaimed in part, except with the consent of the other party or parties and the approval of the Trademark Trial and Appeal Board, or except upon motion.”

Further, 37 C.F.R. § 2.71(a) restricts amendments to the identification of goods or services in that “[t]he applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services.”

II. Requested Amendment.

Applicant moves to amend the classification of goods as follows:

- a. Current description: IC 005: “Insect barrier in the nature of a granular repellant for burrowing pest control.”

- b. Proposed amendment: IC 001: “Insect barrier in the nature of a granular repellent for burrowing pest control.”

III. Argument.

Applicant respectfully submits that the proposed amendment to the classification of the goods of U.S. Trademark Application No. 85883894 is made with the stipulated consent of the Opposer and therefore is proper pursuant to 37 C.F.R. § 2.133(a). Further, this amendment is proper pursuant to 37 C.F.R. § 2.71(a) because the amendment clarifies the description of the goods associated with the trademark of U.S. Trademark Application No. 85883894.

WHEREFORE, the Applicant respectfully requests that the Motion to Amend Application be granted by the Board.

Respectfully submitted,

/Amy A. Rollins/

Amy A. Rollins

BRANNON SOWERS & CRACRAFT PC

1 North Pennsylvania Street, Suite 800

Indianapolis, Indiana 46204

Phone: 317.630.2812

Email: arollins@bscattorneys.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon counsel for the Opposer, via e-mail, this 24th day of August, 2015.

/Amy A. Rollins/